

### Remarks

The above application has been carefully reviewed in light of the first Office Action and the Rejections as set forth on August 6, 2008 and the comments of the Examiner have been duly noted.

The Examiner has rejected claims 1 through 8 under 35 U.S.C. §102(b) as being anticipated by the published Japanese Patent Application No. 2-353.

After a careful study of the prior art, the parent Claim 1 has been amended to add an additional feature and a limitation in order to clarify the claimed invention. Other claims have been amended in part in order to correct minor inaccuracies. Additionally, the non-elected claims have been cancelled.

The claimed invention as set forth in Claim 1 relates to an adhesive tape adapted to be attached to a surface (adherend) such as a vehicle pillar post or door frame, etc. for the purpose of enhancing the appearance thereof. The key features of Claim 1 are, the positioning tab **24** and the tape body **4** are interconnected via a connecting portion **8** including the cutting line **L** and the cutting line **L** is recited as penetrating through the tape body **4** and the release sheet **12**.

In use, the positioning tab **24** can be separated from the tape body **4** along the cutting line **L** with the release sheet **12**. Therefore, the positioning tab **24** can easily be removed from the tape body **4** after the tape body is secured to the an adherend, such as a vehicle door frame. In addition, a worker can remove the positioning tab **24** from the tape body **4** without touching an adhesive layer **10** applied to the tab.

The cited Japanese publication (JP2-353) teaches an adhesive tape **22** composed of a tape body **24** and an ear portion **26**. The tape has a cutting line or perforations **27** formed between the tape body and the ear portion so that the ear portion can be easily removed from the tape body **24**. The tape **22** is provided with a release sheet **28** (28A and 28B). Note however that the cutting line **27** is not formed in the release sheet **28**. In other words, the cutting line **27** does not penetrate through the tape body **24** and the release sheet **28**. Accordingly, the ear portion cannot be separated from the tape body **24** with the release sheet **28**.

Further, in order to adhere the tape body **24** to an adherend, the ear portion **26** is released from the release sheet **28** (28A). Next, the ear portion **28** is gripped and pulled so that tape body **24** is released from the release tape **28** (28B). Thereafter, the tape body is affixed to the adherend. Finally, the ear portion **26** is pulled so as to be separated from the adhered tape body **24**.

Thus, in the adhesive tape **22**, the ear portion is simply used as a "finger grip area" and not as a positioning tab. Accordingly, it is not believed that the ear portion of JP2-353 corresponds to the positioning tab **24** of applicant's claimed invention as set forth in Claim 1 and those claims dependent therefrom.

The Japanese publication does not teach or suggest the features now claimed.

The adhesive tape art is a crowded art with hundreds of patents all directed to what may at first appear to be *slight* differences in structure. Many of these "minor" improvements have resulted in new or unexpected results, improving the application of trim and decorative strips to vehicles either during construction at the factory or subsequent to sale.

It has long been held that such minor technological improvements can have practical impact, particularly in a

crowded art, and are patentable. See *Continental Can Co. USA Inc. v. Monsanto Co.* 20 USPQ2d 1746 (Fed. Cir. 1991). Also note *Goodyear Tire and Rubber Co. v. Hercules Tire and Rubber Co.* 48 USPQ2d 1767 (Fed. Cir. 1998).

Progress is important in crowded arts as in those which are in a pioneer stage and such progress is usually made in small increments. *In re Hummer* 113 USPQ 66 (CCPA 1957).

It is believed that the present contribution to the art meets the criteria of the law and the cases cited above.

Accordingly, reconsideration of the rejection of the claims is respectfully solicited.

Respectfully submitted,

By



Donald L. Dennison  
Reg. No. 19,920  
Attorney for Applicants  
Dennison, Schultz, & Macdonald  
1727 King Street  
Suite 105  
Alexandria, VA 22314  
(703) 837-9600 Ext. 15

Nov. 4, 2008